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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,279	11/23/2001	Hyung-Ki Hong	8733.545.00	2426

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EXAMINER	
SEFER, AHMED N	
ART UNIT	**PAPER NUMBER**
2826	

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/990,279	HONG, HYUNG-KI	
	Examiner	Art Unit	
	A. Sefer	2826	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 July 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) *9-22* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *3* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I (claims 1-8) in Paper No. 5 is acknowledged.

Double Patenting

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See Miller v. Eagle Mfg. Co., 151 U.S. 186 (1894); In re Ockert, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-8 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-8 of copending Application No. 09/986,631. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

4. Claims 1-8 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-5, 8-12 and 14 of copending Application No. 09/986,631. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

5. Claims 1-8 are directed to the same invention as that of claims 1-5, 8-12 and 14 of commonly assigned No. 09/986,631. The issue of priority under 35 U.S.C. 102(g) and possibly 35 U.S.C. 102(f) of this single invention must be resolved.

Since the U.S. Patent and Trademark Office normally will not institute an interference between applications or a patent and an application of common ownership (see MPEP § 2302), the assignee is required to state which entity is the prior inventor of the conflicting subject matter. A terminal disclaimer has no effect in this situation since the basis for refusing more than one patent is priority of invention under 35 U.S.C. 102(f) or (g) and not an extension of monopoly.

Failure to comply with this requirement will result in a holding of abandonment of this application.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshihara et al. USPN 6,115,016.

Yoshihara et al. disclose (see figs. 5 and 6, col. 6, lines 30-52 col. 8, lines 46-53) a field sequential liquid crystal display device, comprising: a liquid crystal panel having an upper substrate 2, a lower substrate 4 and a liquid crystal layer 13 therebetween; a backlight device 22 under the liquid crystal panel for irradiating light to the liquid crystal panel and having three color light sources having one of colors Red, Green and Blue (as in claim 3); and an image signal processor 31 controlling a sequential lighting order and combination of the three color light sources.

As for claim 2, Yoshihara et al. disclose (col. 6, lines 30-52) each of the three color light sources has one of colors Cyan, Magenta and Yellow.

As for claim 4, Yoshihara et al. disclose (col. 8, lines 17-29) the image signal processor changes the lighting order and combination of the three color light sources depending on image characteristics displayed in the liquid crystal panel.

As for claims 5 and 6, Yoshihara et al. disclose (col. 5, lines 54-59) liquid crystal layer is Optical Compensated Birefringent (antiferroelectric liquid crystal) mode or Ferroelectric Liquid Crystal (FLC) mode (as in claim 6).

As for claims 7 and 8, Yoshihara et al. disclose (col. 3, lines 1-15) the three color light sources are sequentially lit for up to about [fraction (1/180)] second at three subframes when one frame period is approximately [fraction (1/60)] second; wherein a lighting time of each of the light sources at each subframe is less than [fraction (1/180)] second (as in claim 8).

8. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Lim et al. US PG-Pub 2002/0057253.

Lim et al. disclose (see figs. 1-7 and col. 6, lines 30-52) a field sequential liquid crystal display device, comprising: a liquid crystal panel having an upper substrate 20, a lower substrate 40 and a liquid crystal layer 30 therebetween; a backlight device 50 under the liquid crystal panel for irradiating light to the liquid crystal panel and having three color light sources having one of colors Red, Green and Blue (as in claim 3); and an image signal processor 120.

As for said signal processor controlling a sequential lighting order and combination of the three color light sources, it refers to a function and a recitation of the intended function of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See In re Casey, 152 USPQ 235 (CCPA 1967) and In re Otto, 136 USPQ 458, 459 (CCPA 1963).

As for claim 2, Lim et al. disclose (page 5, par. 0046) each of the three color light sources has one of colors Cyan, Magenta and Yellow.

As for claim 4, Lim et al. disclose (page 4, par. 0044) the image signal processor changes the lighting order and combination of the three color light sources depending on image characteristics displayed in the liquid crystal panel.

As for claims 5 and 6, Lim et al. disclose (page 4, par. 0044) liquid crystal layer is Optical Compensated Birefringent (antiferroelectric liquid crystal) mode or Ferroelectric Liquid Crystal (FLC) mode (as in claim 6).

As for claims 7 and 8, Lim et al. disclose (page 3, par. 0016) the three color light sources are sequentially lit for up to about [fraction (1/180)] second at three subframes when one frame period is approximately [fraction (1/60)] second; wherein a lighting time of each of the light sources at each subframe is less than [fraction (1/180)] second (as in claim 8).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Sefer whose telephone number is (703) 605-1227.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (703) 308-6601.

ANS
November 1, 2003

NATHAN J. FLYNN
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